

OPINION
58-85

October 15, 1958 (OPINION)

EDUCATION

RE: Institutional Holding Associations - Faculty Housing

We have received your letter dated October 9, 1958, wherein you ask whether institutional holding associations can construct faculty housing on the campuses of our institutions of higher learning with the consent of the Board of Higher Education.

Chapter 15-17 of the 1943 code provides for the formation of institutional holding associations for the erection of dormitories on or near the campuses of our institutions of higher learning, such dormitories to be used solely for educational purposes. The cost of the site, building, and equipment is fixed by the Board of Higher Education, and when the building is paid for it becomes the property of the state.

The question then is whether faculty housing can be said to come within the definition of a dormitory.

In checking the case law on this subject, we find that the courts invariably define a dormitory as "a sleeping room or a series of sleeping rooms" or "a dormitory is a room or rooms used for sleeping." See Hillsdale College v. Rideout, 46 N.W. 373; Russell v. Trustees of Purdue University, 168 N.E. 529; also, United Cerebral Palsy Assn. v. Zoning Board 114 A 2nd, 331.

From reading our statutes on the subject, and the above cited cases, it is our view and opinion that an institutional holding association does not have the legal authority to erect faculty housing but only dormitories.

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